

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RONALD L. BRICKER,	)	
	)	2:08cv1053
Plaintiff,	)	Electronic Filing
	)	
v.	)	Judge David Stewart Cerccone /
	)	Magistrate Judge Lisa Pupo
CAPT. GEORGE A. KUZILLA, Pennsylvania State	)	Lenihan
Police Troop D; JOHN S. SHAFFER, Executive	)	
Deputy Secretary; JUDITH VIGLIONE, Director;	)	
DR. JEFFREY A. BEARD, Secretary; WILLIAM	)	
D. SPRENKLE, Executive Secretary; JAMES	)	
BARNACLE, Director; DAVID S. NOVITSKY,	)	
Deputy Director; MICHAEL W. HORLOW,	)	
Superintendent; DEPUTY MAHLEMISTER;	)	
CAPT. RUSSELL WILSON, Security; LT.	)	
GIDDINGS, Officer; CO. EXLEY, Guard; CO.	)	
WALMSLEY, Guard; CO. WOOD, Guard; Mr.	)	
APPLEGARTH, CCII; WILLIAM (BILL) WOODS,	)	
Unit Manager; SGT. WALKER, Official;	)	
RANDALL PEEVEY, Inmate; THOMAS	)	
MILLIRON, Inmate; THOMAS W. CORBETT, JR.,	)	
Attorney General; and ALL JOHN AND JANE	)	
DOE'S,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

The above captioned case was initiated on July 29, 2008, by the filing of a Motion to Proceed In Forma Pauperis (Doc. No. 1) accompanied by a Complaint. It was originally assigned to Magistrate Judge Lisa Pupo Lenihan, but was reassigned to Judge David S. Cerccone on October 7, 2008, upon the filing of an appeal of a Magistrate Judge ruling. The case was referred back to Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules.

The Magistrate Judge's Report and Recommendation (Doc. No. 77), filed on August 31, 2009, recommended that Commonwealth Defendants' Motion to Dismiss (Doc. No. 54) be granted with respect to Defendants Shaffer, Viglione, Beard, Sprenkle, Barnacle, Novitsky, Horlow, Mahlemister, Wilson, Giddings, Exley, Walmsley, Wood, Applegarth, Woods, and Walker. It further recommended that Commonwealth Defendants' Motion to Dismiss be denied with respect to Defendant Kuzilla and that dismissal be granted, *sua sponte*, to Defendants Corbett and "All John and Jane Doe's". The Plaintiff was served at his address of record, FCI Houtzdale, P.O. Box 1000, Houtzdale, PA 16698-1000 and counsel for the Defendants were served electronically. The parties were advised they were allowed ten (10) days from the date of service to file written objections to the report and recommendation. Plaintiff filed a Motion for Extension of Time to File Objections (Doc. No. 81) on September 11, 2009. The Court granted the Plaintiff an extension and established a new deadline of September 28, 2009, for objections to be filed. Plaintiff's objections were filed on September 29, 2009, and, after review, are deemed to be without merit. Therefore, upon review of the pleadings and documents in the case, together with the report and recommendation and objections thereto, the following order is entered:

AND NOW, this 30 day of September, 2009,

**IT IS HEREBY ORDERED** that Commonwealth Defendants' Motion to Dismiss (Doc. No. 54) is **GRANTED** with respect to Defendants Shaffer, Viglione, Beard, Sprenkle, Barnacle, Novitsky, Horlow, Mahlemister, Wilson, Giddings, Exley, Walmsley, Wood, Applegarth, Woods, and Walker.

**IT IS FURTHER ORDERED** that Commonwealth Defendants' Motion to Dismiss is **DENIED** with respect to Defendant Kuzilla.

**IT IS FURTHER ORDERED** Defendants Corbett and "All John and Jane Doe's" are **DISMISSED**.

**IT IS FURTHER ORDERED** that the Report and Recommendation (Doc. No. 77) of Magistrate Judge Lenihan, dated August 31, 2009, is adopted as the opinion of the court.



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David Stewart Cercone  
United States District Judge

cc: Honorable Lisa Pupo Lenihan  
United States Magistrate Judge

Ronald L. Bricker  
FQ-9611  
SCI-Houtzdale  
P.O. Box 1000  
Houtzdale, PA 16698-1000

Randall Peevey  
GF-5136  
SCI-Mercer  
801 Butler Pike  
Mercer, PA 16137

Thomas Milliron  
FR-4556  
SCI Mercer  
801 Butler Pike  
Mercer, PA 16137

Paul R. Scholle  
Email: [pscholle@attorneygeneral.gov](mailto:pscholle@attorneygeneral.gov)